

PART 18a—DELEGATION OF RESPONSIBILITY IN CONNECTION WITH TITLE VI, CIVIL RIGHTS ACT OF 1964

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AUTHORITY: 5 U.S.C. 301, 38 U.S.C. 501 and 38 CFR 18.9(d) and appendix A, part 18.

§18a.1 Delegations of responsibility between the Secretary of Veterans Affairs and the Secretary, Department of Health and Human Services, and the Secretary, Department of Education.

(a) Authority has been delegated to the Secretary of Veterans Affairs by the Secretary, Department of Health and Human Services, and the Secretary, Department of Education to perform responsibilities of those Departments and of the responsible Departmental officials under Title VI of the Civil Rights Act of 1964 and the Departments' regulations issued thereunder (45 CFR part 80 and 34 CFR part 100) with respect to: Proprietary (i.e., other than public or nonprofit) educational institutions, except if operated by a hospital; and post secondary, nonprofit, educational institutions other than colleges and universities, except if operated by a college or university, a hospital, or a unit of State or local government (i.e., those operating such institutions as an elementary or secondary school, an area vocational school, a school for the handicapped, etc.)

(1) The compliance responsibilities so delegated include:

(i) Soliciting, receiving, and determining the adequacy of assurances of compliance under 45 CFR 80.4 and 34 CFR 100.4;

(ii) All actions under 45 CFR 80.6 including mailing, receiving, and evalu-

ating compliance reports under §80.6(b) and 34 CFR 100.6(b); and

(iii) All other actions related to securing voluntary compliance, or related to investigations, compliance reviews, complaints, determinations of apparent failure to comply, and resolutions of matters by informal means.

(2) The Department of Health and Human Services and the Department of Education specifically reserve to themselves the responsibilities for the effectuation of compliance under 45 CFR 80.8, 80.9, 80.10 and 34 CFR 100.8, 100.9 and 100.10.

(b) Authority has been delegated to the Secretary, Department of Health and Human Services and the Secretary, Department of Education, to perform responsibilities of the Department of Veterans Affairs and of the responsible Department of Veterans Affairs official under Title VI of the Civil Rights Act of 1964 and the Department of Veterans Affairs regulations issued thereunder (part 18 of this chapter) with respect to institutions of higher learning, including post-high school institutions which offer nondegree courses for which credit is given and which would be accepted on transfer by a degree-granting institution toward a baccalaureate or higher degree; hospitals and other health facilities and elementary and secondary schools and school systems including, but not limited to, their activities in connection with providing or seeking approval to provide vocational rehabilitation to eligible persons under Chapter 31 of Title 38 U.S.C., or education or training to eligible persons under Chapters 34, 35, or 36 of Title 38 U.S.C.

(1) The compliance responsibilities so delegated include:

(i) Soliciting, receiving, and determining the adequacy of assurances of compliance under §18.4 of this chapter;

(ii) Mailing, receiving, and evaluating compliance reports under §18.6(b) of this chapter; and

(iii) All other actions related to securing voluntary compliance or related investigations, compliance reviews, complaints, determinations of apparent failure to comply and resolutions of matters by informal means.

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(2) The Department of Veterans Affairs specifically reserves to itself responsibilities for effectuation of compliance under §§18.8, 18.9, and 18.10 of this chapter. Not included in the delegation to the Secretary, Department of Health and Human Services and the Secretary, Department of Education and specifically reserved to the Department of Veterans Affairs is the exercise of compliance responsibilities with respect to:

(i) Postsecondary schools which do not offer a program or courses leading, or creditable, towards the granting of at least a bachelor's degree, or its equivalent;

(ii) Privately-owned and operated proprietary technical, vocational, and other private schools at the elementary or secondary level; and

(iii) Those institutions of higher learning and elementary and secondary schools and school systems which, as of January 3, 1969, have already been subjected to formal noncompliance proceedings by the Department of Health and Human Services or the Department of Education and have had their right to receive Federal financial assistance from that agency terminated for non-compliance with Title VI of the Civil Rights Act of 1964.

The Department of Veterans Affairs also retains the right to exercise delegated compliance responsibilities itself in special cases with the agreement of the appropriate official in the Department of Health and Human Services or the Department of Education.

(c) Any institution of higher learning or a hospital or other health facility which is listed by the Department of Health and Human Services or the Department of Education as having filed an assurance of compliance will be accepted as having met the requirements of the law for the purpose of payment under 38 U.S.C. Chapters 31, 34, 35, or 36 and 38 U.S.C. sections 1741, 8131-8137 and 8155.

(d) If the Department of Health and Human Services or the Department of Education finds that a school, hospital or other health facility which has signed an assurance of compliance is apparently in noncompliance, action will be initiated by that Department to obtain compliance by voluntary means.

If voluntary compliance is not achieved, the Department of Veterans Affairs will join in subsequent proceedings.

(e) An institution which is on the Department of Health and Human Services or the Department of Education list of noncomplying institutions will be considered to be in a status of compliance for Department of Veterans Affairs purposes if an assurance of compliance is filed with the Department of Veterans Affairs and actual compliance is confirmed. Certificates of eligibility may be issued and enrollments approved and other appropriate payments made until such time as the Department of Veterans Affairs has made an independent determination that the institution is not in compliance.

[35 FR 10759, July 2, 1970, as amended at 51 FR 10385, Mar. 26, 1986]

§18a.2 Delegation to the Chief Benefits Director.

The Chief Benefits Director is delegated responsibility for obtaining evidence of voluntary compliance for vocational rehabilitation, education, and special restorative training to implement Title VI, Civil Rights Act of 1964. Authority is delegated to the Chief Benefits Director and designee to take any necessary action as to programs of vocational rehabilitation, education, or special restorative training under 38 U.S.C. Chapters 31, 34, 35, and 36 for the purpose of securing evidence of voluntary compliance directly or through the agencies to whom the Secretary of Veterans Affairs has delegated responsibility for various schools or training establishments to implement part 18 of this chapter. The Chief Benefits Director also is delegated responsibility for obtaining evidence of voluntary compliance from recognized national organizations whose representatives are afforded space and office facilities in field facilities under jurisdiction of the Chief Benefits Director.

[35 FR 10759, July 2, 1970, as amended at 51 FR 10386, Mar. 26, 1986; 54 FR 34984, Aug. 23, 1989]

§ 18a.3 Delegation to the Chief Medical Director.

The Chief Medical Director is delegated responsibility for obtaining evidence of voluntary compliance implementing the provisions of Title VI, Civil Rights Act of 1964, in connection with payments to State homes, with State home facilities for furnishing nursing home care, and from recognized national organizations whose representatives are afforded space and office facilities in field facilities under jurisdiction of the Chief Medical Director.

[35 FR 10759, July 2, 1970, as amended at 51 FR 10386, Mar. 26, 1986]

§ 18a.4 Duties of the Director, Contract Compliance Service.

Upon referral by the Chief Medical Director or the Chief Benefits Director, the Director, Contract Compliance Service will:

(a) Investigate and process all complaints arising under Title VI of the Civil Rights Act of 1964;

(b) Conduct periodic audits, reviews and evaluations;

(c) Attempt to secure voluntary compliance by conciliatory or other informal means whenever investigation of a complaint, compliance review, failure to furnish assurance of compliance, or other source indicates noncompliance with Title VI; and

report to the Chief Medical Director or the Chief Benefits Director, whichever is appropriate, the results of investigations, audits, reviews and evaluations or the results of attempts to secure voluntary compliance.

[35 FR 10759, July 2, 1970, as amended at 51 FR 10386, Mar. 26, 1986]

§ 18a.5 Delegation to the General Counsel.

The General Counsel is delegated the responsibility, upon receipt of information from the Chief Benefits Director, the Chief Medical Director, or the designee of either of them, that compliance cannot be secured by voluntary means, of forwarding to the recipient or other person the notice required by § 18.9(a) of this chapter, and also is delegated the responsibility of represent-

ing the agency in all proceedings resulting from such notice.

[35 FR 10759, July 2, 1970]

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